

Office of Administrative Hearings

Overview

Joint Appropriations Subcommittee on General Government

March 5, 2013



FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

Outline

- Provide a broad overview of the Office and budget
- Highlight relevant Session Law's impacting fiscal matters
- Present relevant output and outcome measures, as available
- Highlight key issues that may require Legislative attention

Office of Administrative Hearings

Statutory Authorization:

- Article 60 of G.S. 7A

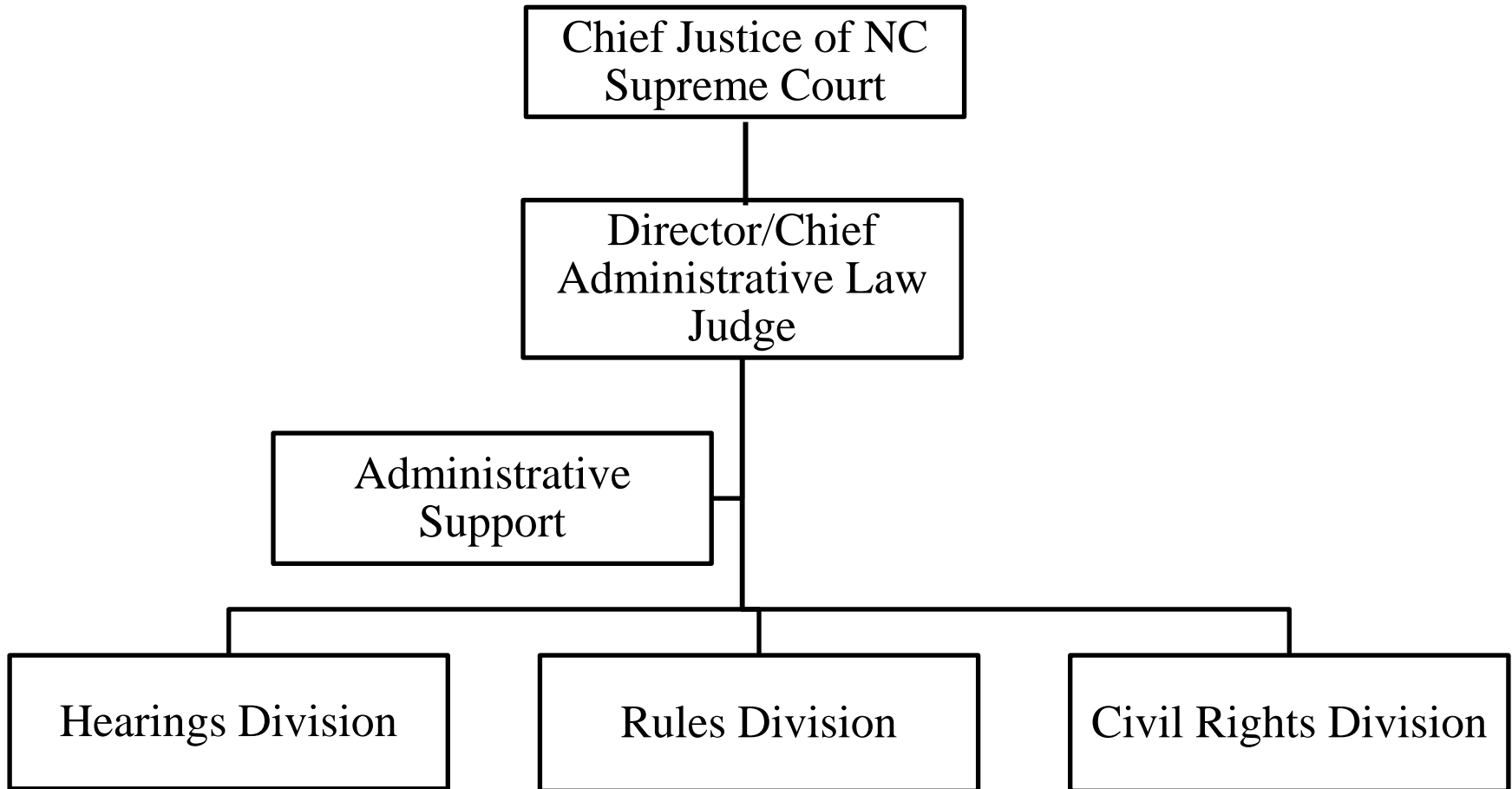
Administers:

- G.S. 150B (Administrative Procedure Act)

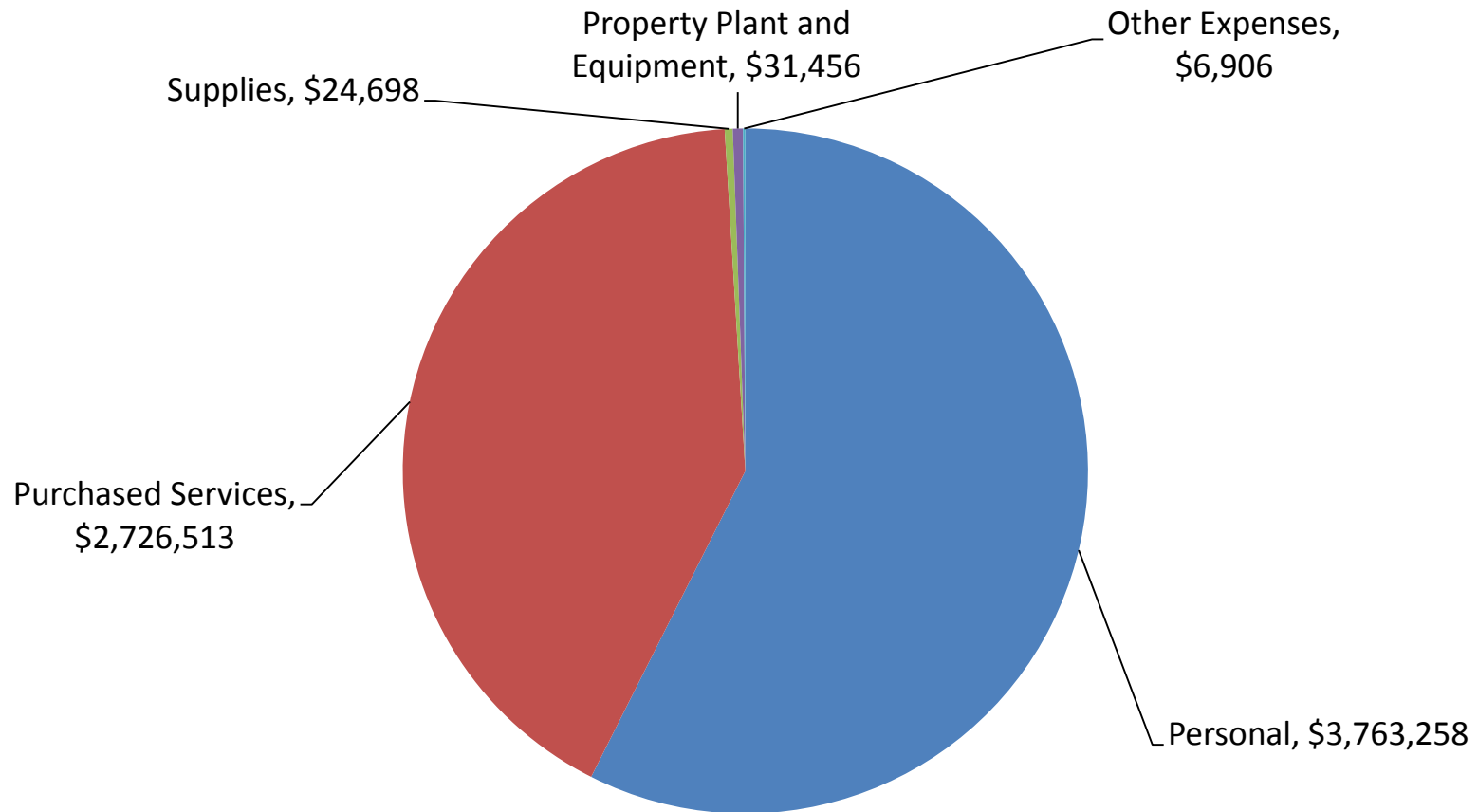
Designated Deferral Agency For:

- Civil Rights Act of 1964, Age Discrimination in Employment Act, and Americans with Disability Act for State and Local Government Employees covered under G.S. 126

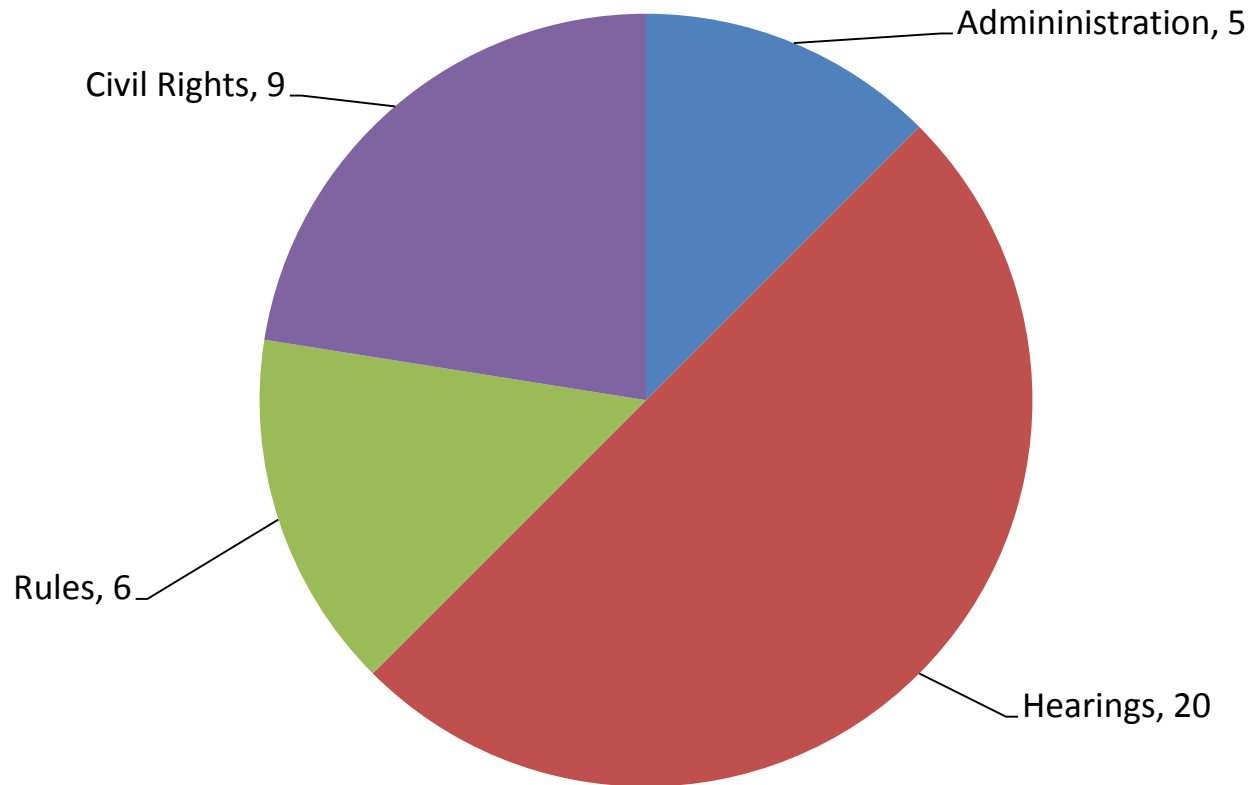
Office of Administrative Hearings



Office of Administrative Hearings, Authorized Budget, FY 2012-13



Office of Administrative Hearings, Certified Positions, FY 2012-13



Office of Administrative Hearings

| | Actual | Actual | Authorized* | Recommended Continuation | Recommended Continuation |
|---------------|-------------|-------------|-------------|--------------------------|--------------------------|
| Fiscal Year | 2011 | 2012 | 2013 | 2014 | 2015 |
| Requirements | \$5,985,561 | \$5,825,593 | \$6,552,831 | \$6,117,956 | \$6,132,923 |
| Receipts | \$1,870,925 | \$1,817,926 | \$2,257,832 | \$1,782,492 | \$1,782,492 |
| Appropriation | \$4,114,637 | \$4,007,668 | \$4,294,999 | \$4,335,464 | \$4,350,431 |
| Certified FTE | 42 | 40 | 40 | 40 | 40 |

Sources of Receipts: Transfers from Department of Health and Human Services and Federal Funds related to Equal Employment Opportunity Commission related activities

*Authorized budget figures used due to a certification issue regarding HHS Receipts

Rules Division

- Administers Rule Making Process Throughout State Government
- Staffs Rules Review Commission
- Publishes the Register and Administrative Code

What is a Rule?

The standard process by which an entity implements laws that impact outside entities:

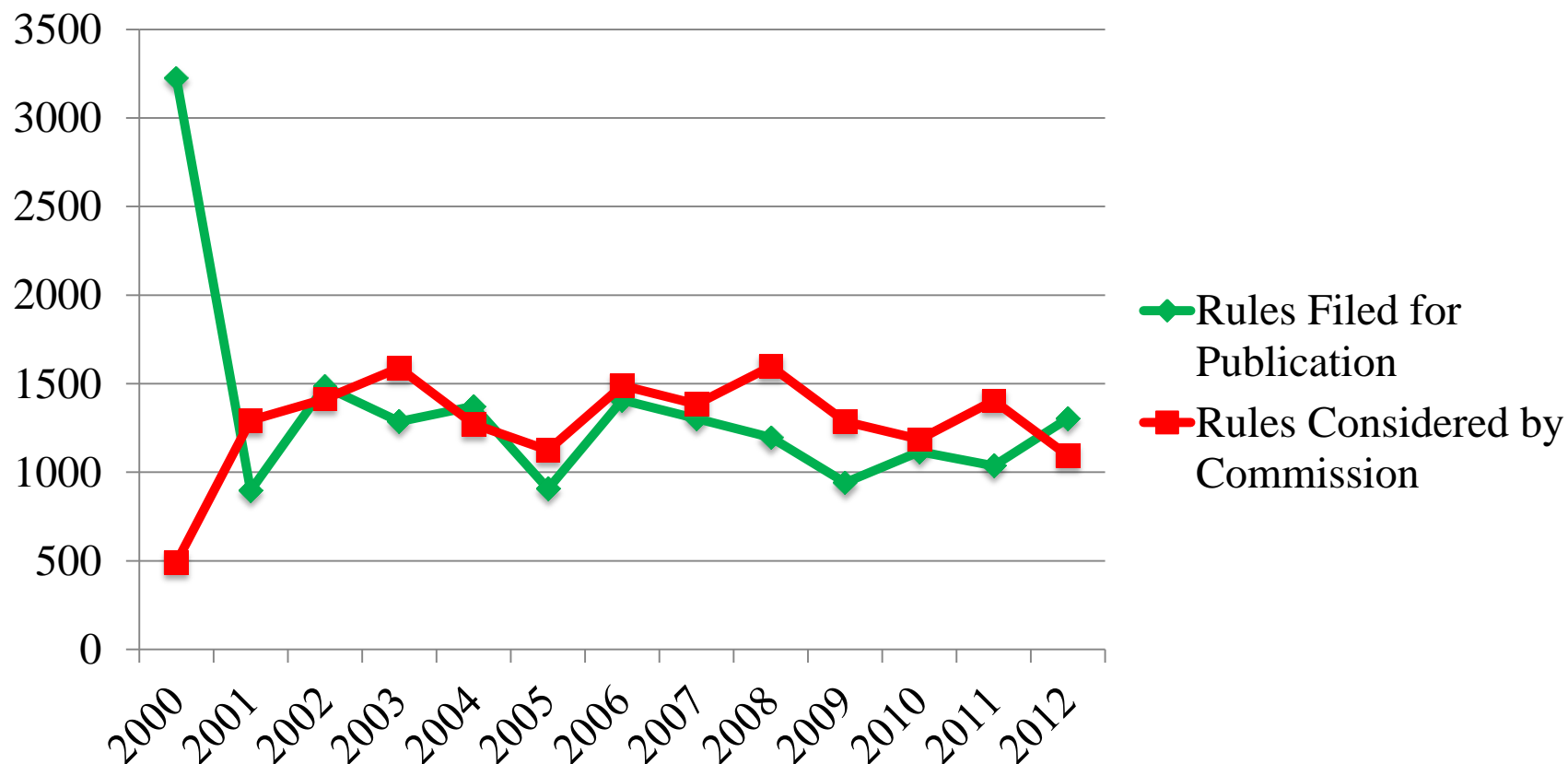
- Must be authorized by State or Federal law
- Must be unburdensome as possible
- Written in a clear and unambiguous manner
- May not be unnecessary or redundant
- Based on sound information
- Must achieve the regulatory objective in a cost effective and timely manner

Rules Review Commission

General Assembly appointed 10 person Commission established under G.S. 143B-30.1 to review and approve rules that meet the following:

- Within the Agency's authority
- Clear and unambiguous
- Reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency

Rules Review Division



FY 2012: 269 attendees through various training sessions

Rules Review Commission

Joint Legislative Administrative Procedure Oversight Committee recommended a decennial review of all rules (S.B. 32):

- Review of 22,899 rules, 4,556 with deadlines beginning in CY 2016
- Estimated staff and budget required to review:
 - Four new positions and \$361,000 recurring

Hearings Division

Responsible for hearing Contested Cases under G.S. 150B:

- Nine Administrative Law Judges
 - One Chief Administrative Law Judge
 - One Senior Administrative Law Judge
 - Seven Administrative Law Judges
- Offices in Raleigh, Highpoint, and Charlotte

What is a Contested Case?

An entity may file a contested case if they feel an Agency has:

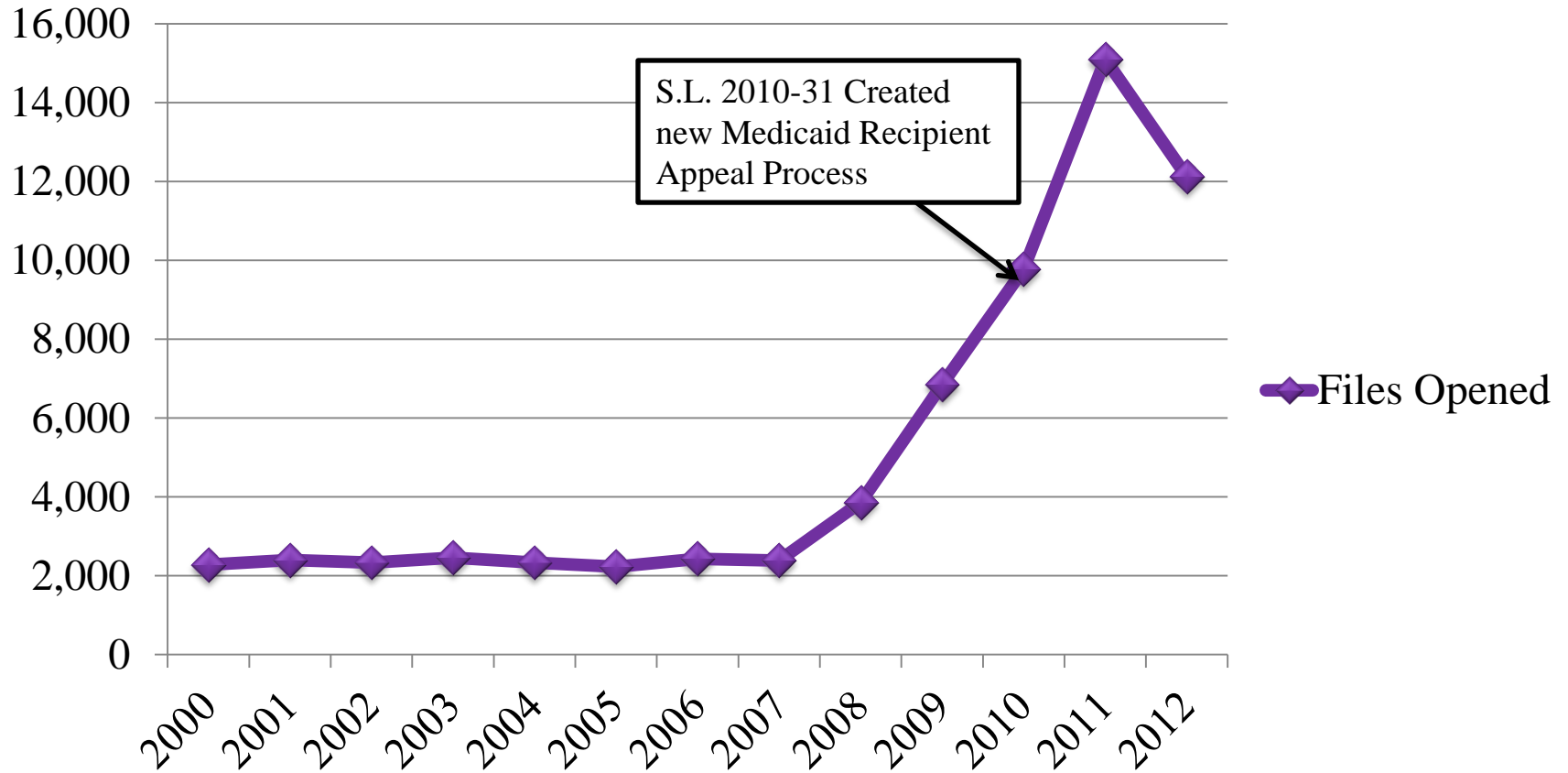
- Deprived them of property
- Ordered them to pay a fine or civil penalty
- Substantially prejudiced their rights

What is a Contested Case?

The Petitioner must prove that the Agency:

- Exceeded its authority or jurisdiction
- Acted erroneously
- Failed to use proper procedure
- Acted arbitrarily or capriciously
- Failed to act as required by law or rule

Hearings Division



S.L. 2011-145 eliminated one Administrative Law Judge

Hearings Division

S.L. 2011-398 Granted the Office of Administrative Hearings Final Decision Authority for contested cases

- *Prior to this Law:* OAH decisions or orders would be sent back to an Agency for final review and then to Superior Court, if necessary
- *After this Law:* Majority of OAH decisions proceed to Superior Court, if necessary

Has this change caused a fiscal impact?

Civil Rights Division

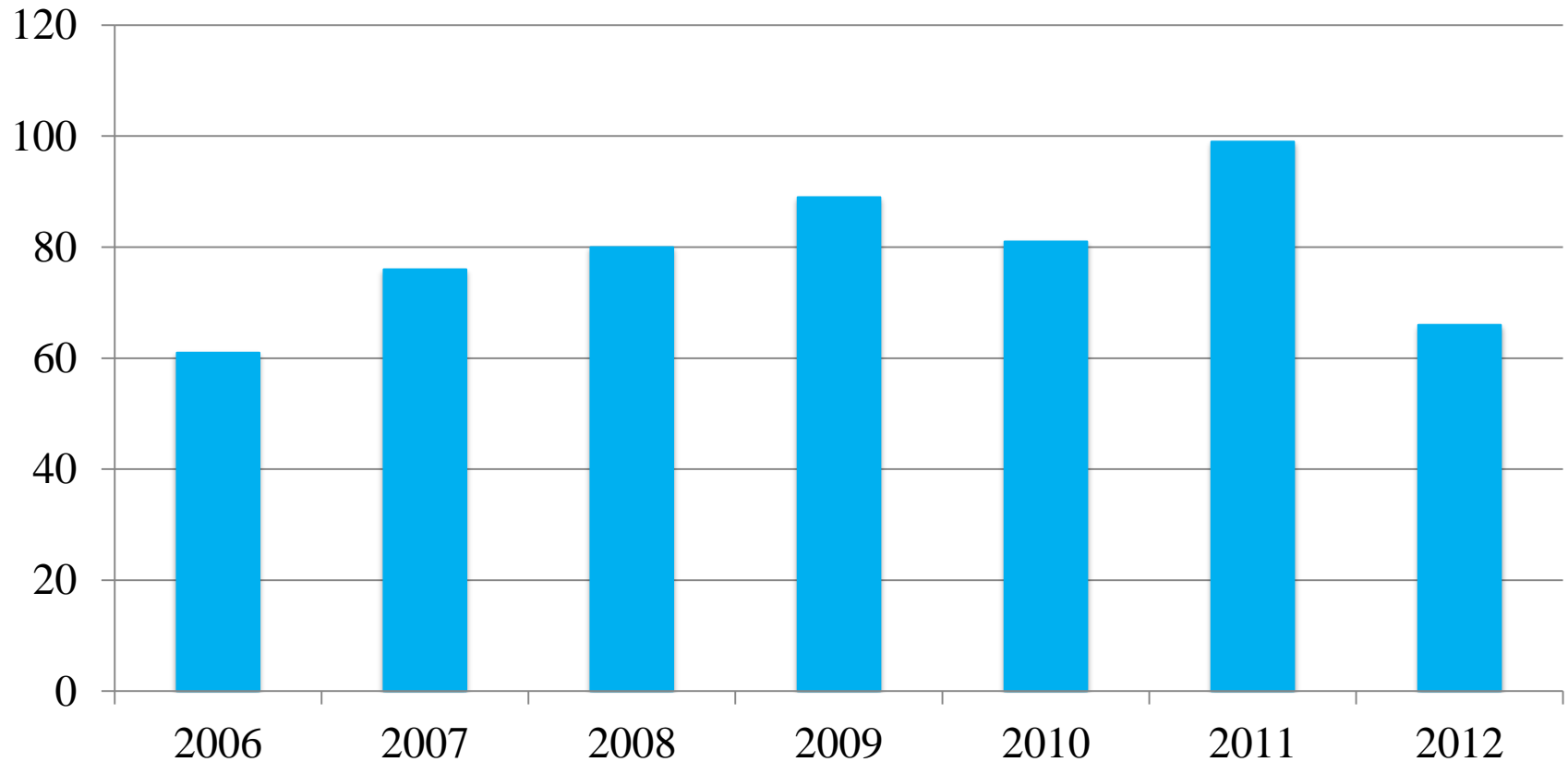
The Civil Rights Division investigates claims of employment discrimination by state employees against agencies. This division serves as the official deferral agency for the federal Equal Employment Opportunity Commission under Section 706 of the Civil Rights Act of 1964.

Civil Rights Division

- Makes initial determination of complaints of employment discrimination made by state and county government employees
- Investigates complaints of employment discrimination based on political affiliation made by state employees, former employees, and applicants (G.S. 126-14.4)
- Investigates complaints of employment discrimination on the basis of citizenship status and national origin

Civil Rights Division

Case Closures, by Fiscal Year



Civil Rights Division

Fiscal Research Division:

- 2007 Justification Review recommended consolidating Civil Rights Division and Human Relations Commission

Program Evaluation Report:

- Merger of the Human Relations Commission with the Civil Rights Division Would Yield Limited Cost Savings (October 2012)

Office of Administrative Hearings



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